IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1724 of 2006

BHANWAR LAL & ANR.
V/S
U.I.T.,UDAIPUR & ORS.

Mr.SANDEEP SHAH for Mr. PRADEEP SHAH, for the appellant / petitioner

Mr. TRIBHUWAN GUPTA, for the respondent

Date of Order : 11.10.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

Perused the impugned order.

In my view, the learned trial court has rightly found that it is not established that original of Patta was in existence, and therefore, permission cannot be given to lead secondary evidence. It has also been considered that the question about existence is precisely in dispute, and therefore, the permission cannot be given to lead secondary evidence.

In my view, the factum of existence of Patta could be shown by the plaintiff petitioner by producing various other material, which could lend assurance about the Patta having been issued. Considering the totality of circumstances, I do not find any ground to interfere with the impugned order in my writ jurisdiction.

The writ petition is, therefore, dismissed. However, it is made clear that this will not come in the way of the petitioner to assail the correctness, legality or propriety of the impugned order by setting forth appropriate ground in appeal, if necessity so arises, and if the petitioner so stands advised.

(N P GUPTA),J.

/sushil/